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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/153,644	09/15/98	DOBBS	S 05015.0175

HM12/0821

NEEDLE & ROSENBERG  
SUITE 1200 THE CANDLER BUILDING  
127 PEACHTREE STREET NE  
ATLANTA GA 30303-1811

EXAMINER

MCQUEENEY, F

ART UNIT	PAPER NUMBER
1615	10

DATE MAILED: 08/21/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/153,644

Applicant(s)

DOBBS ET AL.

Examiner

P. E. McQueeney

Art Unit

1615

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) \_\_\_\_\_.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

### **DETAILED ACTION**

1. Acknowledgement is made of applicant's amendment filed June 29, 2000.
2. Applicant's arguments with respect to claims 1-48 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

3. Claims 1-5, 8, 10-12, 14, 15, 27-38 and 43-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Madrange nee Dermain et al. (US 4,173,627). Madrange nee Dermain et al. disclose claims 1, 30-32, 34 and 43 of applicant's invention in claims 1, 6 and 7 and at column 3, lines 37-52. Madrange nee Dermain et al. disclose claims 2, 3, 35, 36, 44 and 45 of the present invention in claim 9 and col. 3, lines 48-52. Madrange nee Dermain et al. disclose claims 4 and 5 of the present invention in col. 4, line 28 through col. 5, line 8. Madrange nee Dermain et al. disclose claims 8, 10 and 11 of the present invention in claims 1 and 4. Madrange nee Dermain et al. disclose claim 12 of the present invention in claim 4 and Example 2. Madrange nee Dermain et al. disclose claims 14, 15, 33, 37, 38 and 46 and 47 of the present invention in claim 1, 3, 9 and col. 3, lines 48-52. Madrange nee Dermain et al. disclose claim 27 of the present invention in claim 8. Madrange nee Dermain et al. disclose claims 28 and 29 of the present invention in claim 8 and col. 4, lines 18-28.

4. Claims 1, 2, 8-10, 16, 17, 31-35, 37, 39-44 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Heeb et al. (US 4,243,548). Heeb et al. disclose a pressurised aerosol formulation. Heeb et al. disclose claims 1, 8-10, 16, 17, 31-35, 37, 39, 40, 43, 44 and 46 of the present invention in claims 1-11; col. 3, lines 3-7 and example 15. Heeb et al. disclose claim 2 of the present invention in claims 1-11; col. 3, lines 3-7 and 40-48 and example 15. Heeb et al. disclose claims 41 and 42 in claims 1-11 and col. 3, lines 3-7 and the examples.

***Claim Rejections - 35 USC § 103***

5. Claims 1-40 and 43-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Madrange nee Dermain et al. as discussed above.

Madrange nee Dermain et al. do not explicitly include water in their disclosure. However, since Madrange nee Dermain et al. do not disclose that the ethanol must be absolute or denatured ethanol, it would be obvious to one of ordinary skill in the art at the time of the invention to use ethanol that is not absolute or denatured with the motivation that the ethanol that is not absolute or denatured may be more readily available or cheaper. Such ethanol contains about 5% water.

The amounts of the water is considered a manipulatable parameter that would be obvious to one skilled in the art in an effort to provide a suitable solvent.

Madrange nee Dermain et al. do not explicitly disclose 1,1-difluoroethane. Madrange nee Dermain et al. does disclose difluoroalkane. It is the position of the examiner that the specific alkane is a limitation that would be routinely determined by

one of ordinary skill in the art through minimal experimentation as being suitable absent the presentation of some unusual or unexpected results. The results must be those that occur from the specific limitations.

Madrange nee Dermain et al. do not disclose a method of fixing hair. In the absence of criticality, it is the position of the examiner that the spraying of hair spray onto hair is a well-known method available on any bottle of hair spray.

6. Claims 1, 2, 8-10, 16, 17, 31-35, 37, 39-44 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heeb et al. as discussed above.


Heeb et al. disclose isopropanol in example 15. Applicant's claims directed to ethanol would have been obvious to the skilled artisan because the close structural similarity of the reference compound suggests the claimed compound. One skilled in the art would expect the two compounds to have similar properties.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to P. E. McQueeney whose telephone number is 703-306-5827. The examiner can normally be reached on weekdays from 8:30 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page, can be reached on (703) 308-2927. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3592.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234.

  
THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600